

## **IC 36-1-8**

### **Chapter 8. Miscellaneous Fiscal and Administrative Provisions**

## **IC 36-1-8-1**

### **Application of chapter**

Sec. 1. This chapter applies to all political subdivisions.

*As added by Acts 1980, P.L.211, SEC.1.*

## **IC 36-1-8-2**

### **Cash change fund; establishment; use**

Sec. 2. (a) The fiscal body of a political subdivision may permit any of its officers or employees having a duty to collect cash revenues to establish a cash change fund. Such a fund must be established by a warrant drawn on the appropriate fund of the political subdivision in favor of the officer or employee, in an amount determined by the fiscal body, without need for appropriation to be made for it.

(b) The officer or employee who establishes a cash change fund shall convert the warrant to cash, shall use it to make change when collecting cash revenues, and shall account for it in the same manner as is required for other funds of the political subdivision.

(c) The fiscal body shall require the entire cash change fund to be returned to the appropriate fund whenever there is a change in the custodian of the fund or if the fund is no longer needed.

*As added by Acts 1980, P.L.211, SEC.1.*

## **IC 36-1-8-3**

### **Petty cash fund; establishment; use; reimbursement**

Sec. 3. (a) The fiscal body of a political subdivision may establish a petty cash fund for any of its offices in a like manner to that prescribed by section 2 of this chapter.

(b) The custodian of a petty cash fund shall use it to pay small or emergency items of operating expense. A receipt shall be taken for each expenditure made from the fund.

(c) The custodian of a petty cash fund shall periodically file a voucher, with all original receipts totaling the cash claimed expended being attached to it, so that the fund can be reimbursed for expenditures from it. Reimbursement must be approved and made in the same manner as is required for other expenditures of the political subdivision.

*As added by Acts 1980, P.L.211, SEC.1.*

## **IC 36-1-8-4**

### **Transfer of prescribed amount to fund in need of money for cash flow purposes; extension of time for transfer**

Sec. 4. (a) The fiscal body of a political subdivision may, by ordinance or resolution, permit the transfer of a prescribed amount, for a prescribed period, to a fund in need of money for cash flow purposes from another fund of the political subdivision if all these conditions are met:

- (1) It must be necessary to borrow money to enhance the fund that is in need of money for cash flow purposes.
- (2) There must be sufficient money on deposit to the credit of the other fund that can be temporarily transferred.
- (3) Except as provided in subsection (b), the prescribed period must end during the budget year of the year in which the transfer occurs.
- (4) The amount transferred must be returned to the other fund at the end of the prescribed period.
- (5) Only revenues derived from the levying and collection of property taxes or special taxes or from operation of the political subdivision may be included in the amount transferred.

(b) If the fiscal body of a political subdivision determines that an emergency exists that requires an extension of the prescribed period of a transfer under this section, the prescribed period may be extended for not more than six (6) months beyond the budget year of the year in which the transfer occurs if the fiscal body does the following:

- (1) Passes an ordinance or a resolution that contains the following:
  - (A) A statement that the fiscal body has determined that an emergency exists.
  - (B) A brief description of the grounds for the emergency.
  - (C) The date the loan will be repaid that is not more than six (6) months beyond the budget year in which the transfer occurs.
- (2) Immediately forwards the ordinance or resolution to the state board of accounts and the department of local government finance.

*As added by Acts 1980, P.L.211, SEC.1. Amended by P.L.57-1991, SEC.3; P.L.10-1997, SEC.24; P.L.90-2002, SEC.460.*

### **IC 36-1-8-5**

#### **Funds raised by general or special tax levy; disposition of unused balance; transfers to local rainy day fund**

Sec. 5. (a) This section applies to all funds raised by a general or special tax levy on all the taxable property of a political subdivision.

(b) Whenever the purposes of a tax levy have been fulfilled and an unused and unencumbered balance remains in the fund, the fiscal body of the political subdivision shall order the balance of that fund to be transferred as follows, unless a statute provides that it be transferred otherwise:

- (1) Funds of a county, to the general fund or rainy day fund of the county, as provided in section 5.1 of this chapter.
- (2) Funds of a municipality, to the general fund or rainy day fund of the municipality, as provided in section 5.1 of this chapter.
- (3) Funds of a township for redemption of poor relief obligations, to the poor relief fund of the township or rainy day fund of the township, as provided in section 5.1 of this chapter.

(4) Funds of any other political subdivision, to the general fund or rainy day fund of the political subdivision, as provided in section 5.1 of this chapter. However, if the political subdivision is dissolved or does not have a general fund or rainy day fund, then to the general fund of each of the units located in the political subdivision in the same proportion that the assessed valuation of the unit bears to the total assessed valuation of the political subdivision.

(c) Whenever an unused and unencumbered balance remains in the civil township fund of a township and a current tax levy for the fund is not needed, the township fiscal body may order any part of the balance of that fund transferred to the debt service fund of the school corporation located in or partly in the township; but if more than one (1) school corporation is located in or partly in the township, then any sum transferred shall be transferred to the debt service fund of each of those school corporations in the same proportion that the part of the assessed valuation of the school corporation in the township bears to the total assessed valuation of the township.

(d) Transfers to a political subdivision's rainy day fund must be made after the last day of the political subdivision's fiscal year and before March 1 of the subsequent calendar year.

*As added by Acts 1980, P.L.211, SEC.1. Amended by P.L.251-2001, SEC.1; P.L.173-2003, SEC.18.*

### **IC 36-1-8-5.1**

#### **Rainy day funds established by political subdivisions**

Sec. 5.1. (a) A political subdivision may establish a rainy day fund by the adoption of:

- (1) an ordinance, in the case of a county, city, or town; or
- (2) a resolution, in the case of any other political subdivision.

(b) An ordinance or a resolution adopted under this section must specify the following:

- (1) The purposes of the rainy day fund.
- (2) The sources of funding for the rainy day fund, which may include the following:

(A) Unused and unencumbered funds under:

- (i) section 5 of this chapter;
- (ii) IC 6-3.5-1.1-21.1;
- (iii) IC 6-3.5-6-17.3; or
- (iv) IC 6-3.5-7-17.3.

(B) Any other funding source:

- (i) specified in the ordinance or resolution adopted under this section; and
- (ii) not otherwise prohibited by law.

(c) The rainy day fund is subject to the same appropriation process as other funds that receive tax money.

(d) In any fiscal year, a political subdivision may transfer under section 5 of this chapter not more than ten percent (10%) of the political subdivision's total annual budget for that fiscal year,

adopted under IC 6-1.1-17, to the rainy day fund.

(e) A political subdivision may use only the funding sources specified in subsection (b)(2)(A) or in the ordinance or resolution establishing the rainy day fund. The political subdivision may adopt a subsequent ordinance or resolution authorizing the use of another funding source.

(f) The department of local government finance may not reduce the actual or maximum permissible levy of a political subdivision as a result of a balance in the rainy day fund of the political subdivision. *As added by P.L.251-2001, SEC.2. Amended by P.L.90-2002, SEC.461; P.L.173-2003, SEC.19; P.L.267-2003, SEC.15; P.L.81-2004, SEC.45.*

### **IC 36-1-8-6**

#### **Reversion of unused appropriation; funds received from state or the United States**

Sec. 6. (a) The unused and unencumbered balance of an appropriation made by a unit for any purpose reverts, at the end of the unit's fiscal year, to the fund from which the appropriation was made, unless a statute provides otherwise.

(b) Any amount necessary to pay a bill, judgment, or valid claim concerning any balance that reverts under subsection (a) shall be taken from the fund to which it reverted to pay the bill, judgment, or valid claim.

(c) Notwithstanding subsection (a), if an appropriation is made by a unit to establish or maintain a program of self-insurance by the unit, the balance described in subsection (a) reverts to the fund only if the fiscal body of the unit specifically adopts subsection (a) when it makes the appropriation.

(d) Subsection (a) does not apply to dedicated or appropriated funds received from the state or the United States, to funds of municipal utilities, or to balances of appropriations made from the general fund of a city for transfer to the aviation fund of the city. *As added by Acts 1980, P.L.211, SEC.1.*

### **IC 36-1-8-7**

#### **Bank deposit or cash on hand constituting pledge or guaranty**

Sec. 7. A bank deposit or cash on hand, together with any accrued interest, constituting a pledge or guaranty on behalf of a political subdivision shall be deposited as a part of the funds of the political subdivision and be credited to the proper funds by the officers having custody of those funds after one (1) year has elapsed after the period for which the pledge or guaranty has been posted to a special account.

*As added by Acts 1980, P.L.211, SEC.1.*

### **IC 36-1-8-8**

#### **Protection of employees reporting violations of federal, state, or local laws; disciplinary actions; procedures**

Sec. 8. (a) An employee of a political subdivision may report in

writing the existence of:

- (1) a violation of a federal law or regulation;
- (2) a violation of a state law or rule;
- (3) a violation of an ordinance of a political subdivision; or
- (4) the misuse of public resources;

first to a supervisor or appointing authority, unless the supervisor or appointing authority is the person whom the employee believes is committing the violation or misuse of public resources. In that case, the employee may report the violation or misuse of public resources in writing to either the supervisor or appointing authority or any official or agency entitled to receive a report from the state ethics commission under IC 4-2-6-4(b)(2)(G) or IC 4-2-6-4(b)(2)(H). If a good faith effort is not made to correct the problem within a reasonable time, the employee may submit a written report of the incident to any person, agency, or organization.

(b) For having made a report under subsection (a), an employee may not:

- (1) be dismissed from employment;
- (2) have salary increases or employment related benefits withheld;
- (3) be transferred or reassigned;
- (4) be denied a promotion that the employee otherwise would have received; or
- (5) be demoted.

(c) Notwithstanding subsections (a) and (b), an employee must make a reasonable attempt to ascertain the correctness of any information to be furnished and may be subject to disciplinary actions for knowingly furnishing false information, including suspension or dismissal, as determined by the employee's appointing authority or the appointing authority's designee. However, any employee disciplined under this subsection is entitled to process an appeal of the disciplinary action under the procedure set forth in any personnel policy or collective bargaining agreement adopted by the political subdivision.

(d) An employer who violates this section commits a Class A infraction.

*As added by P.L.32-1987, SEC.4. Amended by P.L.9-1990, SEC.16.*

### **IC 36-1-8-9**

#### **Riverboat fund establishment; administration and investment of funds**

Sec. 9. (a) Each unit that receives tax revenue under IC 4-33-12-6, IC 4-33-13, or an agreement to share a city's or county's part of the tax revenue may establish a riverboat fund. Money in the fund may be used for any legal or corporate purpose of the unit.

(b) The riverboat fund established under subsection (a) shall be administered by the unit's treasurer, and the expenses of administering the fund shall be paid from money in the fund. Money in the fund not currently needed to meet the obligations of the fund may be invested in the same manner as other public funds may be

invested. Interest that accrues from these investments shall be deposited in the fund. Money in the fund at the end of a particular fiscal year does not revert to the unit's general fund.

*As added by P.L.90-1997, SEC.7.*

### **IC 36-1-8-10**

#### **"Board" defined; political affiliation of board appointees**

Sec. 10. (a) As used in this section, "board" means an administration, an agency, an authority, a board, a bureau, a commission, a committee, a council, a department, a division, an institution, an office, a service, or another similarly designated body of a political subdivision.

(b) Whenever a law or political subdivision's resolution requires that an appointment to a board be conditioned upon the political affiliation of the appointee, or that the membership of a board not exceed a stated number of members from the same political party, at the time of an appointment, one (1) of the following must apply to the appointee:

(1) The most recent primary election in which the appointee voted was a primary election held by the party with which the appointee claims affiliation.

(2) If the appointee has never voted in a primary election, the appointee claims a party affiliation.

(3) The appointee is certified as a member of that party by the party's county chairman for the county in which the appointee resides.

(c) Notwithstanding any other law, if the term of an appointed member of a board expires and the appointing authority does not make an appointment to fill the vacancy, the member may continue to serve on the board for only sixty (60) days after the expiration date of the member's term.

*As added by P.L.185-1988, SEC.1. Amended by P.L.68-1996, SEC.4; P.L.167-2001, SEC.10; P.L.199-2001, SEC.28; P.L.126-2002, SEC.91.*

### **IC 36-1-8-10.5**

#### **Employee of political subdivision as candidate for or appointed to office**

Sec. 10.5. (a) This section does not apply to the following:

(1) An elected or appointed officer.

(2) An individual described in IC 20-5-3-11.

(b) An employee of a political subdivision may:

(1) be a candidate for any elected office and serve in that office if elected; or

(2) be appointed to any office and serve in that office if appointed;

without having to resign as an employee of the political subdivision.

*As added by P.L.26-2000, SEC.45.*

### **IC 36-1-8-11**

**Methods of payments to subdivisions or utilities**

Sec. 11. (a) This section does not apply to a county treasurer governed by IC 36-2-10-23.

(b) As used in this section, "credit card" means a:

- (1) credit card;
- (2) debit card;
- (3) charge card; or
- (4) stored value card.

(c) A payment to a political subdivision or a municipally owned utility for any purpose may be made by any of the following financial instruments that the fiscal body of the political subdivision or the board of the municipally owned utility authorizes for use:

- (1) Cash.
- (2) Check.
- (3) Bank draft.
- (4) Money order.
- (5) Bank card or credit card.
- (6) Electronic funds transfer.
- (7) Any other financial instrument authorized by the fiscal body.

(d) If there is a charge to the political subdivision or municipally owned utility for the use of a financial instrument, the political subdivision or municipally owned utility may collect a sum equal to the amount of the charge from the person who uses the financial instrument.

(e) If authorized by the fiscal body of the political subdivision or the board of the municipally owned utility, the political subdivision or municipally owned utility may accept payments under this section with a bank card or credit card under the procedures set forth in this section. However, the procedure authorized for a particular type of payment must be uniformly applied to all payments of the same type.

(f) The political subdivision or municipally owned utility may contract with a bank card or credit card vendor for acceptance of bank cards or credit cards.

(g) The political subdivision or municipally owned utility may pay any applicable bank card or credit card service charge associated with the use of a bank card or credit card under this subsection.

(h) The authorization of the fiscal body of the political subdivision is not required by the bureau of motor vehicles or the bureau of motor vehicles commission to use electronic funds transfer or other financial instruments to transfer funds to the political subdivision.

*As added by P.L.40-1996, SEC.5. Amended by P.L.18-1996, SEC.32; P.L.2-1997, SEC.78; P.L.173-2003, SEC.20.*

**IC 36-1-8-12****Special fund for state grant money and local matching money; reversion of unused money**

Sec. 12. (a) If a political subdivision other than a school corporation receives state grant money requiring local matching

money, the political subdivision shall create a special fund and deposit the grant money and matching money into the special fund. The money in the fund may be used only for the purposes of the grant.

(b) If a political subdivision completes the project for which the state grant money was provided and money remains in the fund:

(1) the political subdivision shall transfer the state's share of the remaining money to the treasurer of state for deposit in the fund from which the grant was made; and

(2) the political subdivision's pro rata share of the remaining money reverts to the political subdivision's general fund.

*As added by P.L.10-1997, SEC.25. Amended by P.L.68-2001, SEC.9.*

### **IC 36-1-8-13**

#### **Referral of dishonored checks to prosecuting attorney**

Sec. 13. A unit that is unable to obtain payment of a dishonored check shall, not later than ninety (90) days after the check is initially received by the unit, refer the matter to the prosecuting attorney for the county where the dishonored check was received for prosecution.  
*As added by P.L.98-2000, SEC.17.*

### **IC 36-1-8-14**

#### **Three-fourths vote rounded to nearest whole number**

Sec. 14. Whenever this title requires an action to be taken by a three-fourths (3/4) vote, the number of votes necessary to satisfy the requirement is rounded to the nearest whole number.  
*As added by P.L.125-2001, SEC.1.*

### **IC 36-1-8-14.2**

#### **Payments in lieu of taxes; exemptions**

Sec. 14.2. (a) As used in this section, the following terms have the meanings set forth in IC 6-1.1-1:

- (1) Assessed value.
- (2) Exemption.
- (3) Owner.
- (4) Person.
- (5) Property taxation.
- (6) Real property.
- (7) Township assessor.

(b) As used in this section, "PILOTS" means payments in lieu of taxes.

(c) As used in this section, "property owner" means the owner of real property described in IC 6-1.1-10-16.7.

(d) Subject to the approval of a property owner, the governing body of a political subdivision may adopt an ordinance to require the property owner to pay PILOTS at times set forth in the ordinance with respect to real property that is subject to an exemption under IC 6-1.1-10-16.7, if the improvements that qualify the real property for an exemption were begun or acquired after December 31, 2001. The ordinance remains in full force and effect until repealed or



modified by the governing body, subject to the approval of the property owner.

(e) The PILOTS must be calculated so that the PILOTS are in an amount equal to the amount of property taxes that would have been levied by the governing body for the political subdivision upon the real property described in subsection (d) if the property were not subject to an exemption from property taxation.

(f) PILOTS shall be imposed as are property taxes and shall be based on the assessed value of the real property described in subsection (d). The township assessors shall assess the real property described in subsection (d) as though the property were not subject to an exemption.

(g) PILOTS collected under this section shall be deposited in the affordable housing fund established under IC 5-20-5-15.5 and used for any purpose for which the affordable housing fund may be used.

(h) PILOTS shall be due as set forth in the ordinance and bear interest, if unpaid, as in the case of other taxes on property. PILOTS shall be treated in the same manner as taxes for purposes of all procedural and substantive provisions of law.

(i) This section does not apply to a county that contains a consolidated city or to a political subdivision of the county.

*As added by P.L.186-2001, SEC.8.*